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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Amendment of Part 97 of the)
Commission's Rules to Eliminate)
Certain One-Way Communications in) RM-8626
the Amateur Radio Service Medium)
and High Frequency Bands)

To: The Commission

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COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED
IN RESPONSE TO PETITION FOR RULE MAKING

THE AMERICAN RADIO RELAY
LEAGUE, INCORPORATED

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SUMMARY

The American Radio Relay League, Incorporated (the League), the national association of amateur radio operators in the United States, submits its comments in response to the Petition for Rule Making filed on or about March 16, 1995 by Frederick O. Maia (Maia). Maia requests that the Commission's rules governing the Amateur Radio Service be modified so as to prohibit Amateur Radio Service stations to transmit one-way information bulletins and international Morse Code practice below 30 MHz. The League believes that its bulletins, transmitted on its headquarters station W1AW, are a beneficial service to radio amateurs generally, and would not continue the service if it was believed to be a detriment to amateur operation in the MF and HF bands.

Because Maia has offered no substantial basis for his proposed rule changes; because the rules do not require change in order to address the problem perceived by Maia; because the issue stated in the petition is vastly overstated by Maia; and because the remedy proposed would be directly contrary to the best interests of the Amateur Service, the League urges the Commission, in the strongest possible terms, to deny or dismiss the petition without further consideration.

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COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED
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1. At the outset, it is noteworthy that the petitioner's regular business includes the dissemination of a subscription newsletter containing, among other things, articles of interest to the Amateur Radio Service. Petitioner also sells amateur radio examination preparation materials, including Morse Code tapes, for use by those interested in becoming amateur radio operators, or

those licensed radio amateurs interested in upgrading their license class. Elimination of all high-frequency bulletins of direct interest to the Amateur Service, and the prohibition of international Morse Code practice on amateur frequencies below 30 MHz would be distinctly beneficial to Petitioner from a pecuniary standpoint, as it would eliminate free alternatives to products offered for retail sale by the Petitioner. While it is not suggested that the petitioner filed his petition for purely pecuniary benefit to himself, it does explain the overstated nature of the issue identified by Maia, and the lack of any identifiable problem that cannot be addressed by the current regulations as they are stated.

2. The League has, since 1924, operated an amateur station at its headquarters in Connecticut. Originally, W1MK, now W1AW, the League has provided a regular HF bulletin service containing items of direct interest to radio amateurs since at least 1930. In the December, 1930 issue of QST, the League's monthly journal, it was noted that "Information of general interest and timely character is addressed to ARRL members twice each evening of operation." These bulletins, now transmitted in voice, Morse code, and several data modes, contain up-to-the-minute information about FCC regulatory changes directly affecting the Amateur Service, propagation forecasts, and information about communications emergencies¹ and

¹ The Commission itself relies on W1AW information bulletins to advise amateurs of communications emergencies requiring special cooperation in the use of the shared amateur frequencies. Most recently, these bulletins were used to advise amateurs to avoid certain frequencies that, according to the Commission's Dallas

the like. These bulletins are transmitted simultaneously on each of seven amateur HF and MF bands, to account for vagaries in propagation to different parts of the United States and possessions. Voice bulletins are limited to twice per day, at ten minutes or less per bulletin session. Morse code bulletins, and Morse code practice are transmitted in the narrowband segments of the MF and HF amateur bands, and is periodic. The schedules of the W1AW bulletins and code practice are announced quarterly in QST and elsewhere, and the frequencies on which W1AW operates are fixed, so that amateurs will know where to tune. Fixed frequency operation also permits amateurs interested in the bulletins to program those frequencies into memory channels on transceivers and receivers. Because the station operates on specific, regularly published frequencies at regular times to offer predictability to those who utilize the service,² there are brief warning messages transmitted significantly in advance of the commencement of the Code practice service. This insures that those on or near the bulletin frequencies in the narrowband portions of the MF and HF bands will not have their communications disrupted when the bulletin service

field office, were required to support the rescue effort following the Oklahoma City terrorist bombing. The declaration of a voluntary communications emergency was disseminated as quickly as it was solely because of W1AW.

² Shifts in operating frequency by W1AW in order to avoid any interaction with other stations would cause those who wish to receive the bulletins and code practice to have to search for the same, and would defeat the purpose of the publication of the schedule and the regularity of the service.

commences, and it is apparently sufficient. Because of these warning notices in advance of code practice; the extremely limited duration of the transmission of the voice bulletins; and because of the well-known availability of the service and the widespread publication of the schedule, W1AW has not ever been alleged to create any significant interference to ongoing amateur communications³ in the admittedly crowded HF bands.⁴ The League

³ On October 11, 1989, FCC Special Services Division Chief Robert McNamara wrote to 19 amateurs, including the trustee of W1AW, seeking information on various uses of the amateur 20-meter band that were alleged to be the subject of a "continuing over-the-air dispute." The ARRL responded on November 15, 1989, acknowledging that over-the-air disputes had arisen with regard to certain net operations but taking issue with the implication that W1AW was in any way a party to a dispute. A review of the file of comments submitted in this informal inquiry revealed not a single criticism of W1AW. On March 4, 1991, Mr. McNamara wrote to the recipients of his original letter advising them of his conclusion "that the dispute is not longer a significant problem and that potentially restrictive rule making can be avoided at this time." The League believes that with regard to the services provided by W1AW, there has been no change whatsoever in the factual situation since Mr. McNamara's letter of March 4, 1991.

⁴ Maia criticizes the inherent infeasability of information bulletin and regular scheduled code practice from W1AW to "listen before transmitting". The League believes the regularly published, widely disseminated schedule of W1AW bulletins and code practice, the limited duration of each, and the advance warning transmissions are sufficient to address that concern. However, it should also be noted that such a capability, even if feasible, is not particularly practical, given the dynamic propagation characteristics in the amateur MF and HF bands. For a W1AW operator (or any amateur radio operator) to listen in New England before transmitting is not a guarantee against interference to other amateur stations. If W1AW is in the skip zone of a station transmitting, W1AW will not hear the transmitted signal. That does not mean, however, that the intended receiving station is in the skip zone of W1AW. Nor are electronic circuits to determine frequency activity successful at HF. One reason is that the noise level varies constantly by both type and amplitude. It is difficult, therefore, to discern signal from noise in these bands by use of a squelch circuit. The problem is further complicated by the fact that HF frequencies are not channelized, and receiver bandwidths vary from amateur station to

believes that its bulletins are a beneficial service to radio amateurs generally, and would not continue the service if it was believed to be a detriment to amateur operation in the MF and HF bands.

3. The W1AW bulletins are not intended for the general public, and do not contain items of interest to the general public, and hence are not "broadcasting" according to the definition thereof in the Communications Act, the ITU Radio Regulations, and the Amateur Service Rules.⁵ The bulletins contain items of interest only to radio amateurs, and to those interested in becoming radio amateurs. They are not limited, however, to items of interest to League members. For many, the W1AW Morse code practice, which is transmitted at several speeds, is the sole means by which newcomers to the avocation achieved sufficient skill in receiving Morse Code to obtain their first amateur license. It remains a primary means by which licensed radio amateurs increase their operating skill, thus to enable self-training and advancement in their license class.

4. The League conducted an informal W1AW listener's survey this year to determine radio amateurs' uses of the W1AW voice, cw,

amateur station. These matters, however, are no more a problem for one-way information bulletins from W1AW than they are for any amateur station engaged in two-way communications, and do not offer any support for the allegation that HF bulletins, voice, cw or data, are somehow improper on the HF bands.

⁵ See RR36 of the Radio Regulations; 47 U.S.C. §153(o), and 47 C.F.R. §97.3(a)(10).

and data bulletin service and code practice service. To date, there have been 461 responses. The most popular mode of bulletin reception is cw (370 responses). SSB was second (114 responses) and just over ten percent receive bulletins via electronic mail distribution. In October 1992, the League commissioned a survey of a stratified random sample of radio amateurs (non-members as well as members of the League). One of the questions asked was, "Whether you're currently a member or not, how VALUABLE would each of ARRL's current benefits and services be to you?" Among respondents representing all radio amateurs, on a scale of 1 to 5 where 1 represented "not at all valuable" and 5 represented "very valuable," 20% said that W1AW code practice sessions rated 5 ("very valuable"); 15% rated them as 4; and just 10% rated them as 2 and 14% as 1. The non-controversial nature of the service was also borne out by the survey results. When asked how well the ARRL was performing W1AW code practice services, less than 2% said "not well." On a scale of 1 to 5, with 1 or 2 meaning "not well" and 4 or 5 meaning "very well," the average (mean) performance rating given to W1AW code practice service was 4.30.

5. Maia, in the League's view, vastly overstates the level of concern about abuses of the Commission's existing rules governing one-way transmissions in the Amateur Service. Surely enough, the rules do not limit the duration of either information bulletins, permitted by Section 97.111(b) of the amateur rules and defined at Section 97.3(a)(23), or Morse Code practice transmissions pursuant to Section 97.111(b)(4). There is the potential for abuse of the

provision by usurpation of a frequency for an informational service, but that potential exists to the same extent in two-way communications as it does with respect to one-way communications. The prohibition of broadcasting in the Amateur Service is also a significant limitation. See 47 C.F.R. §97.113(b), which prohibits both broadcasting, any activity related to program production, and the transmission of one-way communications except as specifically provided in the rules.

6. The definition of "information bulletins" is not at all as broad a category of information as Maia suggests. An information bulletin is defined as "A message directed to amateur operators consisting solely of subject matter of direct interest to the amateur service." Information, therefore, which is related to other radio services is not permitted. Broadcast-type programming is specifically prohibited, because such programming, by definition, (1) is not directed to amateur operators, but to the general public; and (2) does not contain information solely of subject matter of direct interest to amateur radio operators.

7. Morse code practice is specifically permitted as a one-way transmission at Section 97.111(b)(5): Transmissions necessary to assisting persons learning, or improving proficiency in the international Morse code." Maia does not suggest that there are any abuses of the code practice authority contained in the Commission's rules, but simply asserts, without any support at all, that the

code practice has "outlived its usefulness".⁶ The League's code practice, available to potential and licensed radio amateurs at no cost, is, as mentioned above, an obviously useful service, and the League's surveys amply support that conclusion. That it is a free alternative to Maia's retail sale of code practice products is sufficient rebuttal to the allegation that the code practice has "outlived its usefulness". The League contends that the comments in this proceeding will bear out the fact that a significant number of people would rather receive the Morse code practice from an on-air source, in a realistic environment, at no cost, than to purchase Code practice materials from a source such as Maia.

8. Maia, further, mischaracterizes Article 32 of the Radio Regulations in his argument that the ITU envisions only two-way communications in the Amateur Service. That Article does not forbid one-way transmissions in the Amateur Service, because "Radiocommunications between amateur stations" does not imply in any way that one-way transmissions are excluded. That provision

⁶ The continuing relevance of Morse code practice is also borne out by the Commission's own licensing data, which show a high level of interest in upgrading to the five classes of license for which Morse code proficiency is a requirement.

Furthermore, to adopt rules which would cause the nightly Morse code practice from W1AW to be canceled would be contrary to the posture adopted by the United States in its preparation for the World Radio Conference in 1995. At the recently completed CPM-WRC95, the United States affirmed its continued support of ITU RR 2735, which requires that an applicant for an amateur license demonstrate ability to send correctly by hand and receive correctly by ear Morse Code transmissions. The W1AW code practice transmissions are in support of that ITU Radio Regulation. For the United States, on the one hand, to support the continuation of RR 2735, and on the other hand to adopt rules which would prohibit on-the-air code practice transmissions would be contradictory.

envisions both one-way and two-way communications of amateur radio information, though certainly enough, it bolsters the Commission's existing limitations in the definition of "information bulletins" at Section 97.3(a)(23) of the Rules. As evidence of this, it is noteworthy that the United States is by no means unique in allowing the headquarters amateur station of its national society to transmit information bulletins. In fact, the practice is widespread and includes the use of HF bands appropriate to the size of the country being covered.

9. Finally, it is suggested that Maia's allegation of a "pattern of growing abuse" is a gross overstatement of the situation in the amateur service. Maia's inflammatory use of the terms "chaos" and "crisis proportions" are clearly out of place in addressing the level of concern about abuses of the one-way transmission rules currently in place. The League firmly believes that any current abuses of the regulations that may underlay Maia's concerns can be sufficiently addressed by enforcement of existing regulations,⁷ rather than the draconian remedy of terminating

⁷ The level of enforcement assistance in the Amateur Service is, and has been for the past few years, distinctly below that which is necessary in order to continue the deterrence element of the self-regulatory tradition in the Amateur Service. The Commission is perceived as being unable or unwilling to enforce its own rules, and that problem, which is timely and significant, rather than the nature of the present rules themselves, are the proper subject of Maia's attentions. While the Amateur Service does not require a lot of enforcement assistance from the Commission, it does require some. Any on-air anger perceived by Maia in specific cases is the direct result of the Commission allowing abuses to continue for months and years, rather than timely addressing them in the context of the existing rules. The Amateur Service needs enforcement assistance in these few cases, and it needs it right now.

useful services provided to radio amateurs by the League for more than sixty-five years, and which, from the comments already on file in this proceeding and the League's survey, obviously continue to be of great utility to, and enjoyed by, large numbers of radio amateurs. Maia suggests some alternatives to HF information bulletins, but his alternatives require the use of computer equipment not owned by all, and the availability of VHF packet equipment which is far from universally available. Nor are the alternative means of dissemination available to those in rural areas, such as Alaska, for example. Especially with respect to amateur emergency and disaster relief communications, the MF and HF bulletin service provided by W1AW is a valuable, and often the best means of disseminating information to large numbers of radio amateurs.

Therefore, because Maia has offered no substantial basis for his proposed rule changes; because the rules do not require change in order to address the problem perceived by Maia; because the issue stated in the petition is vastly overstated by Maia; and because the remedy proposed would be directly contrary to the best

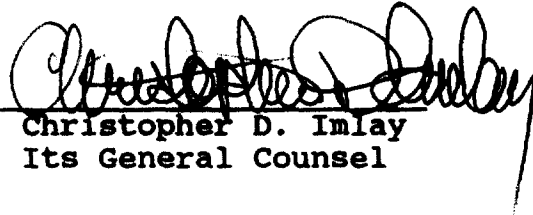
interests of the Amateur Service, the League urges the Commission, in the strongest possible terms, to deny or dismiss the petition without further consideration.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager in the law firm of Booth, Freret & Imlay, do certify that copies of the foregoing COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED IN RESPONSE TO PETITION FOR RULE MAKING were mailed first class, postage prepaid, this 4th day of May, 1995, to the following:

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